

**MINUTES OF
FAUQUIER COUNTY BOARD OF ZONING APPEALS
January 8, 2004**

The Fauquier County Board of Zoning Appeals held its regularly scheduled meeting on Thursday, January 8, 2004, beginning at 2:00 P.M. at the Town of Warrenton Police Department, 333 Carriage House Lane, Warrenton, Virginia. Members present were Mrs. Margaret Mailler, Chairperson; Mr. John Meadows, Secretary; Mr. James W. Van Luven; Mr. Maximilian Tufts, Jr.; Ms. Sonja Addison; Mr. Mark Rohrbaugh. Also present were Ms. Tracy Gallehr, Assistant County Attorney; Ms. Kimberley Johnson, Zoning Administrator; Mr. Fred Hodge, Assistant Zoning Administrator; Mrs. Bonnie Bogert, Planner; and Mrs. Debbie Dotson, Office Associate III.

ELECTION OF OFFICERS: Ms. Tracy Gallehr asked for nominations for the election of officers for 2004. On the nomination made by Mr. Van Luven and seconded by Mr. Meadows it was moved to re-elect Mrs. Margaret Mailler as Chairman. On the nomination made by Mr. Van Luven and seconded by Mr. Rohrbaugh it was moved to elect Mr. John Meadows as Vice-Chairman. On the nomination made by Mr. Meadows and seconded by Mr. Van Luven it was moved to elect Ms. Sonja Addison as Secretary.

On a motion made by Mr. Van Luven and seconded by Mr. Rohrbaugh it was moved to approve the slate of officers.

AYES: Mrs. Mailler, Mr. Meadows, Mr. Van Luven, Ms. Addison, Mr. Rohrbaugh.

NAYS: None

ABSENT: Mr. Tufts

The motion carried.

MINUTES: On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the Board of Zoning Appeals voted to amend the November 6, 2003, minutes:

- on page 2, paragraph 3, the word “out” should be added to “the dogs were all let out at the same time” ;
- on page 8, paragraph 1, the letter “s” added to “Mr. Tufts”.

The motion carried unanimously.

On a motion made by Mr. Tufts and seconded by Mr. Meadows, the Board of Zoning Appeals voted to amend the December 6, 2003, minutes:

- on page 6, the word “it” in the third paragraph should be changed to “them”.

The motion carried unanimously.

On a motion made by Mr. Tufts and seconded by Mr. Van Luven, the Board of Zoning Appeals approved the corrected minutes of the November 6th and December 4th meetings and approved the minutes of the November 7th training session.

The motion carried unanimously.

LETTERS OF NOTIFICATION AND PUBLIC NOTICE: Mr. Hodge stated that to the best of his knowledge, the cases before the Board of Zoning Appeals for a public hearing had been properly advertised, posted, and letters of notification sent to adjoining property owners. Mrs. Dotson read the Public Hearing Protocol.

SPECIAL PERMIT #SPPT04-CT-013, JAMES M. & BARBARA J. STEWART (OWNERS)

Applicants are seeking special permit approval to have gunsmithing as a home occupation under Section 6-302.14, PIN #6995-90-8188, located at 7450 Maple Court, Center District, Warrenton, Virginia. (The BZA granted a special permit for this use on November 5, 1998, and the applicants wish to renew with no time limitation.)

Mr. Hodge stated that the BZA made a site visit last month and held a public hearing on this issue. The public hearing was kept open. Mr. Hodge reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Mr. James M. Stewart, applicant, noted agreement with the staff report.

Mr. Meadows stated concern about a no time limitation being placed on the special permit. He would like to have a time limit of 5 years. Mr. Rohrbaugh asked Mr. Stewart about his Federal Firearms license. Mr. Stewart stated that he did have a license.

In that there were no speakers, Mrs. Mailler closed the public hearing.

On a motion made by Mr. Rohrbaugh and seconded by Mr. Van Luven, the BZA noted that due notice and hearing as required by the Code of Virginia Section 15.2-2204 and Fauquier County Code Section 5-009 had been provided, and voted to grant the special permit, with the following findings and conditions:

1. The proposed use will not adversely affect the use or development of neighboring properties.
2. It is in accordance with the applicable zoning district regulations and to applicable provisions of the adopted Comprehensive Plan, and does conform to the general standards set forth in Section 5-006(1) through (9) of the Zoning Ordinance of Fauquier County, which sections are incorporated in this Motion as if fully set forth.
3. The use will be compatible with the neighborhood in which it is to be located.

4. The application does comply with the specific standards of Section 6-302.14 which apply to Gunsmithing as a Home Occupation.
5. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:
 - (a) No weapons associated with the business shall be fired on the subject property.
 - (b) The permit is granted for 5 years.
 - (c) The permit does not convey with the sale of the property.
 - (d) Copy of Federal Firearms license to be provided to staff

The motion carried unanimously.

VARIANCE #ZNVA04-CR-004, WILLIAM R. & TONIA SMITH, III (OWNERS)

Applicants are seeking a 35' variance to the front yard requirement for a single family dwelling, PIN #7924-39-5962, located on Payne Lane, Cedar Run District, Nokesville, Virginia.

Mr. Hodge stated that the BZA made a site visit last month and held a public hearing, with the public hearing to remain open to allow applicants time to look further into relocating the house in order to minimize the amount of the variance being requested. He stated that there was a memo addressed to the Board from Deborah Dotson, Office Associate III, referencing a phone conversation with Mrs. Smith. Mrs. Smith would like to ask the Board to postpone the hearing until the February 5, 2004, meeting in order to give the engineer more time to prepare the new site location.

On a motion made by Mr. Tufts and seconded by Ms. Addison, the BZA moved to defer the action on this variance per applicants' request to the February 5, 2004, meeting.

The motion carried unanimously.

APPEAL #ZNAP04-MA-003, RAY PENNINGTON, III (OWNER)

Applicant is appealing a decision of the Zoning Administrator with regard to a Mountain View Estates lot not being a residential building lot, PIN #6958-38-7138, located in the Marshall District, Warrenton, Virginia.

On a motion made by Mr. Van Luven and seconded by Mr. Tufts, the BZA voted to dismiss the appeal in that there was no representative to speak for the appeal.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT04-CT-016, ELEANOR M. WATTS (OWNER) /
TAMMY J. ABEL (CONTRACT OWNER)**

Applicant (Contract Owner) seeks special permit approval to conduct a dog grooming business from this property, PIN #6994-19-7452, located at 7392 Cedar Run Drive, Center District, Warrenton, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier today, and he reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Ms. Tammy J. Abel, contract owner, appeared representing the application and agreed with the staff report.

Mrs. Mailler stated concern with parking and the bad curve approaching the property. Ms. Abel stated she would seek approval from VDOT to add a second entrance off Ghadban Court.

Mr. Meadows stated concern with parking and clients having to back out of the driveway. A condition of the approval might be to have VDOT approval for a second entrance.

Helen Jones, resident, stated opposition to the special permit due to vehicular traffic and lack of parking space.

Margaret Zinzer, resident, stated opposition to the special permit due to the curve approaching the property.

Steve Kleppe, resident, stated opposition to the special permit due to vehicular traffic, clients using cul-de-sac as a turn around area, and having unfamiliar animals in the area causing neighborhood dogs to bark.

Paul Root, resident, stated opposition to the special permit due to vehicular traffic and client based business.

Jim Stephens, resident, stated he was in favor of the special permit. He stated he is a client of Ms. Abel's.

Don Widmayer, resident, stated opposition to the special permit due to vehicular traffic and placing a business in a residential area.

Ruth Kaneshiro, resident, stated opposition to the special permit due to concerns with water usage and property having a drainfield.

Ms. Mailler asked Ms. Abel what the potential water usage would be. Ms. Abel stated 80 gallons or under a day. Ms. Abel also stated she could have the septic pumped every 6 months.

Deborah Saadeh, resident, stated opposition to the special permit due to vehicular traffic and signs being placed on the property.

Ms. Mailler asked Ms. Abel to address the sign issue. Ms. Abel stated she did not want a sign and does not need one because her clientele has already been built.

Jim Bush, resident, stated opposition to the special permit due to property being located on the worst stretch of road in the neighborhood.

Michelle Root, resident, stated opposition to the special permit due to vehicular traffic.

Maryann Veax, resident, stated opposition to the special permit due to vehicular traffic and the business becoming bigger.

Mike Edwards, resident, stated opposition to the special permit due to vehicular traffic and presented a petition against the permit.

Ms. Mailler stated the signatures to be made a part of the record.

Brad Shomo, resident, stated opposition to the special permit due to delivery vehicles, parking, and the possibility of animals staying overnight.

Kathy Garrison, resident, stated support of the special permit. She stated she is a client of Ms. Abel's and the dogs are crated when brought to be groomed.

Rose Doors, resident, stated opposition to the special permit due to vehicular traffic and parking.

Mr. Rohrbaugh stated concerns about parking and would like to have comments from VDOT. He stated that a turn around in the driveway would not be sufficient for parking. Mr. Meadows stated that the file shows VDOT had no comments, and a special condition could be placed on the special permit for a second entrance by the BZA. Mr. Meadows also stated that the BZA does not govern covenants. Mr. Van Luven stated he agreed with Mr. Rohrbaugh that a turn around area would not be sufficient.

In that there were no further speakers, Mrs. Mailler closed the public hearing.

On a motion made by Mr. Van Luven and seconded by Ms. Addison, the BZA noted that due notice and hearing as required by the Code of Virginia Section 15.2-2204 and Fauquier County Code Section 5-009 had been provided, and voted to grant the special permit, with the following findings and conditions:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.

3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the specific standards for home occupations with no retail sales contained in section 5-201 of the zoning ordinance, as well as the use limitations for home occupations contained in sections 6-302 and 6-304 of the Zoning Ordinance.
7. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:
 - (a) The hours of operation shall be limited to 9 A.M. to 5 P.M., Monday through Saturday.
 - (b) No more than one non-resident shall be employed on the site.
 - (c) No sign shall be posted for the business.
 - (d) Time limit of 3 years.
 - (e) Subject to VDOT approval of second entrance off of Ghadban Road.
 - (f) The special permit does not convey with the sale of the property.
 - (g) No overnight stays of dogs.
 - (h) Provide a staggered schedule for drop offs and pick ups and provide this schedule to staff.
 - (i) Septic tank cleaned every 6 months.
 - (j) Subject to site plan approval.

The motion carried unanimously.

**SPECIAL PERMIT #SPPT04-CR-017, DAVID REASON CHAPMAN (OWNER) /
CULPEPER FARMERS COOPERATIVE (APPLICANT)**

Applicants wish to locate a farm supply establishment on the property in accord with Sections 3-313.5 and 5-1304 of the Zoning Ordinance, PIN #7807-54-6024, located at the intersection of Route 17 and Harper's Run Road, Cedar Run District, Bealeton, Virginia.

Mr. Hodge stated that a BZA site visit was made earlier today, and he reviewed the staff report, a copy of which is attached to and made a part of the minutes.

Terry Smith, representative of applicant, appeared representing the application and noted agreement with the staff report. Mr. Smith stated the reason for relocation is due to business growth and the business being on the same site. The location of the current business is on separate sides of the road.

Mr. Tufts asked Mr. Smith about meeting the Zoning regulations on signs. Mr. Smith stated that the regulations would be met.

Dick Beard, applicant, stated that he would like to relocate the business from the Remington area to the Bealeton area due to the business growing.

In that there were no further speakers, Mrs. Mailler closed the public hearing.

On a motion made by Mr. Tufts and seconded by Mr. Meadows, the BZA noted that due notice and hearing as required by the Code of Virginia Section 15.2-2204 and Fauquier County Code Section 5-009 had been provided, and voted to grant the special permit, with the following findings and conditions:

1. The proposed use will not adversely affect the use or development of neighboring properties and will not impair the value of nearby land.
2. The proposed use is in accordance with the applicable zoning district regulations and applicable provisions of the Comprehensive Plan.
3. Pedestrian and vehicular traffic generated by the proposed use will not be hazardous or conflict with existing patterns in the neighborhood.
4. Adequate utility, drainage, parking loading and other facilities are provided to serve the proposed use.
5. Air quality, surface and groundwater quality and quantity will not be degraded or depleted by the proposed use to an extent that would hinder or discourage appropriate development in nearby areas.
6. The proposed use is consistent with the specific standards for farm supply establishments.
7. The Board of Zoning Appeals finds the traffic generated by the use will not adversely affect the safety of usage of Route 836 (Harper's Run Road) and will not cause an undue impact on the neighbors.
8. The special permit is granted subject to the following conditions, safeguards, and restrictions upon the proposed uses, as are deemed necessary in the public interest to secure compliance with the provisions of this Ordinance:
 - (a) The development shall be generally consistent with the conceptual special permit plat submitted with the application, dated December 8, 2003.
 - (b) The hours of operation shall be limited to 7 A.M. to 6 P.M. Monday through Saturday.
 - (c) The sign size shall be reduced to comply with zoning regulations.
 - (d) Subject to site plan approval.

On a motion made by Mr. Tufts and seconded Mr. Meadows, the hours of operation were amended to read:

Monday – Wednesday	7:00 A.M. to 5:30 P.M.
Thursday – Friday	7:00 A.M. to 6:00 P.M.
Saturday	7:00 A.M. to 4:00 P.M.
Sunday	Closed

The motion carried unanimously.

SPECIAL PERMIT #SPPT04-CR-012, JOSEPH DEVITO (OWNER)

On a motion made by Mr. Meadows and seconded by Mr. Tufts, the BZA revisited the special permit application submitted by Mr. DeVito. The BZA added a condition that a time limit of 5 years be placed on the permit.

The motion carried unanimously.

Ms. Gallehr updated the Board on the litigation of the Boatwright/Merckli BZA case and the Big K radio station. She stated that a decree was entered dismissing the Boatwright/Merckli case. She stated she had been informed by councilman on the Big K radio case that a draft copy of their motion to dismiss the case will be forthcoming.

ADJOURNMENT: There being no further business before the Board, the meeting adjourned at 3:28 P.M.

Margaret Mailler, Chairperson

Sonja Addison, Secretary

Copies of all files and materials presented to the Board are attached to and become a part of these minutes. A recording of the meeting is on file for one year.